

(a) Persons in the competitive or accepted service (including temporary employment), the Commissioned Corps, or the Senior Executive Service in the IHS;

(b) Persons who perform service for or under the supervision of the IHS while being permanently assigned to another IHS office or to another organization, such as a Federal agency, State, or Tribe;

(c) Persons who volunteer to perform services in IHS facilities;

(d) Persons who contract with the IHS to perform services in IHS facilities.

Must or shall indicates a mandatory or imperative act or requirement.

Offenses against children means any felonious or misdemeanor crime under Federal, State, or Tribal law committed against a victim that has not attained the age of eighteen years. In determining whether a crime falls within this category, the applicable Federal, State, or Tribal law under which the individual was convicted or pleaded guilty or nolo contendere shall be controlling.

Regular contact with or control over an Indian child means responsibility for an Indian child(ren) within the scope of the individual's duties and responsibilities or contact with an Indian child(ren) on a recurring and foreseeable basis.

Tribal Organization as defined in the ISDEA, means the recognized governing body of any Indian Tribe or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities.

§ 136.404 What does the Indian Child Protection and Family Violence Prevention Act require of the IHS and Indian Tribes or Tribal organizations receiving funds under the ISDEA?

(a) The IHS must compile a list of all authorized positions with duties and responsibilities that involve regular contact with or control over Indian children; investigate the character of

each individual who is employed or is being considered for employment in such a position; and prescribe minimum standards of character that each individual must meet to be appointed or employed in such positions.

(b) All Indian Tribes or Tribal organizations receiving funds under the authority of the ISDEA must identify those positions that permit regular contact with or control over Indian children; conduct an investigation of the character of each individual who is employed or is being considered for employment in a position that involves regular contact with or control over Indian children; and employ only individuals who meet standards of character that are no less stringent than those prescribed by regulations in this subpart.

§ 136.405 What are the minimum standards of character for individuals placed in, or applying for, a position that involves regular contact with or control over Indian children?

The minimum standards of character shall mean a benchmark of moral, ethical, and emotional strengths established by character traits and past conduct to ensure that the individual is competent to complete his/her job without harm to Indian children. In order to protect Indian children, the IHS has established minimum standards of character requiring completion of a satisfactory background investigation that ensures that no individuals who have been found guilty of, or entered a plea of nolo contendere or guilty to, any felonious offense or any of two or more misdemeanor offenses under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children, are placed in positions involving regular contact with or control over Indian children.

§ 136.406 Under what circumstances will the minimum standards of character be considered to be met?

The minimum standards of character shall be considered met only after the individual has been the subject of a satisfactory background investigation.